



403 SE Caruthers St., Suite #101
Portland, OR 97214

RECEIVED ON 503.223.6418
info@willametteriverkeeper.org
ORC

AUG 29 2019

no cms
EPA Region 10
Office of the Regional Administrator

Travis Williams
Riverkeeper &
Executive
Director

August 27, 2019

Board of
Directors

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

James
Tiefenthaler
President

City of Albany
City Hall
333 Broadalbin Street, SW, 1st Floor
Albany, OR 97321

Peter Troedsson,
Individually and in his Capacity as City Manager
City of Albany
333 Broadalbin Street, SW, 1st Floor
Albany, OR 97321

Bart Rierson
Treasurer

Jessie Rohrig
Secretary

Re: Notice of Intent to Sue Under § 505 for Violations of the Clean Water Act

Scott
Youngblood

Dear Sirs and Madams:

Belinda
Covarrubias

This letter is to provide you with notice that the nonprofit 501(c)(3) public interest organization Willamette Riverkeeper (the "Notifier" or "Willamette Riverkeeper") intends to file a citizen lawsuit against the City of Albany and its Manager, individually and in his official capacities (collectively "the Discharger" or "the City") who discharge bacteria into the Willamette River, a water of the United States, and who violate emergency overflow limitations. This lawsuit will allege violations by the City of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"); the Oregon Revised Statutes 486B *et seq.*; Oregon Administrative Rules including 340-41-007, 340-41-009, 340-41-340, 340-41-345; and the November 20, 2000 National Pollutant Discharge Elimination System ("NPDES") Waste Discharge Permit No. 102024 issued by the Oregon Department of Environmental Quality the City holds to operate its waste system (the "2000 NPDES Permit"). This lawsuit will be brought pursuant to 33 U.S.C. § 1365(a)(1)(A). Upon the expiration of the sixty (60) day statutory waiting period, Willamette Riverkeeper intends to file a civil action or actions in federal district court in the District of Oregon. The lawsuit will allege that since at least December 7, 2015, the City's past and continuing practices at its waste discharge facilities include numerous of violations of its 2000 NPDES Permit (*see* Figures 1-2, and Attachments 1-2), violations which have harmed and will continue to harm the Willamette River, and Willamette Riverkeeper and its members.

WILLAMETTE RIVER



Water Trail

I. Willamette Riverkeeper

Willamette Riverkeeper is a “citizen” within the meaning of 33 U.S.C. § 1365(g) because the organization, and its 2,500 members and supporters, have an interest which is adversely affected by the City’s violations of the Clean Water Act as alleged herein. Willamette Riverkeeper is a small 501(c)(3) not-for-profit organization with seven staff members. Willamette Riverkeeper was founded in 1996, and serves as the eyes, ears, and voice of the Willamette River. For more than 20 years, the organization’s sole mission is to protect and restore the Willamette River’s water quality and habitat and the resources of the Willamette River basin. Willamette Riverkeeper’s work focuses on the health of the river’s natural ecosystem, which is inseparable from the quality of life of the river’s community, including many members and supporters of Willamette Riverkeeper, who live, work, and recreate in the river (including the stretch of the river subject to this notice letter), its tributaries and side channels, and its surrounding watershed. Willamette Riverkeeper believes that a river with good water quality and abundant natural habitat, safe for fishing and swimming, is a basic public right. Willamette Riverkeeper engages in public outreach and education, advocacy with agencies, agency administrative processes, and where necessary, litigation.

Every year since 2001, Willamette Riverkeeper holds an 80 to 90 mile-5 day Willamette River trip along the National Water Trail called “Paddle Oregon.” Paddle Oregon open to Willamette Riverkeeper members and the public. Paddle Oregon is Willamette Riverkeeper’s largest and most challenging event to organize and coordinate, and hundreds of hours of staff time goes into planning each year’s event. During Paddle Oregon, hundreds of registered paddlers paddle with Willamette Riverkeeper 12 to 20 river miles each day, and camp at the river’s edge at pre-reserved public and private campgrounds. Paddle Oregon enables paddlers to connect with the river, its ecosystem, and its health. As it is a summertime trip, paddlers are encouraged to swim in the river to cool off and enjoy the river. In 2016, Willamette Riverkeeper won Travel Oregon’s Gene Leo Memorial Sustainable Tourism Award at the Oregon Travel and Tourism Industry Achievement Awards.

This year, Paddle Oregon took place August 12–16, 2019 and approximately 155 paddlers and 30 paddle leaders joined in Willamette Riverkeeper’s event. On August 14, 2019, Paddle Oregon paddlers camped overnight at a pre-reserved spot at the City of Albany’s Bryant Park. Paddle Oregon paddlers have camped at Bryant Park for several years. The morning of August 15, 2019, Paddle Oregon’s 185 paddlers left camp and began their scheduled 18-mile paddle down river to Independence, Oregon. Less than two miles into their August 15, 2019 paddle, Paddle Oregon paddlers went right through the City’s ongoing August 15, 2019 estimated 2,100 gallon raw sewage discharge to the Willamette River, from a location identified on the City’s August 20, 2019 Sanitary Sewer Overflow Report as “Abandoned sewer line near Bowman Park”, located near 1905 Linn Avenue.¹ Unaware of the raw sewage discharge, Paddle Oregon paddlers floated in boats and swam alongside their boats in the river during the discharge. Since the discharge, at least two Paddle Oregon paddlers have suffered infections they reasonably believe are related to the discharge.

¹ City of Albany Sanitary Sewer Overflow (SSO) Reporting Form to Oregon DEQ (signed August 20, 2019) (Attachment 1).

II. Dischargers

As of 2018, the City of Albany had a population of approximately 54,543 people. Since the 2000 NPDES Permit was issued nearly 20 years ago, the City's population has increased by approximately 35%, and the City is continuing to grow. The City has public water system servicing approximately 300 miles of pipes, more than 19,000 distribution lines; the pipes vary in age including some that are more than 100 years old.² The City of Albany owns and operates the City wastewater system, which is designed to collect and transmit wastewater to the Willamette River, the Calapooia River, and Oak Creek. Pursuant to the Clean Water Act and ORS 468B.050, on November 20, 2000 the Oregon DEQ issued a NPDES Waste Discharge Permit to the City for its waste discharge activities. The Permit was due to expire on October 31, 2005, but upon information and belief, has been administratively extended for nearly nineteen (19) years. The Manager of the City of Albany, Peter Troedsson, is the elected and/or appointed person with the responsibility to oversee management of the City. The notice letter notifies the City and its Manager in his official and individual capacities.

III. Violations of Federal Law

The Clean Water Act prohibits the discharge of any pollutant by any person, except as authorized by a NPDES permit. 33 U.S.C. § 1311. A NPDES permit may be issued to allow the owner or operator of a facility to discharge pollutants subject to certain limitations, such as monitoring, reporting, effluent standards, and other terms. *Id.* at § 1342(a); 40 C.F.R. Part 122. A discharge that is not explicitly authorized by a permit violates the Clean Water Act. The Clean Water Act allows any state to assume authority to administer its own permitting program in place of the federal program. *Id.* at § 1342(b)-(c). Oregon administers and issues NPDES permits to entities wishing to discharge pollutants. The 2000 NPDES Permit requires the City to operate and maintain its wastewater treatment facilities to prevent unauthorized discharges of untreated wastewater. Willamette Riverkeeper alleges that the City has had impermissible discharges, including discharges from "abandoned" pipes, and unpermitted Sanitary Sewer Overflows during the last five years, which do not cease to be ongoing, and for which there is a real likelihood of repetition. *See* Figures 1-2 below and Attachments 1, 2. Willamette Riverkeeper alleges that the City has failed to eliminate the problems causing unpermitted discharges from its wastewater system.

The lawsuit will allege that the City has violated, is violating, and will continue to violate the Clean Water Act as the discharge of pollutants is unpermitted, and potentially unpermissible. In particular, as set forth in the 2000 NPDES Permit, wastewater is supposed to be collected, transmitted to the City's Wastewater Treatment Facility, treated, and discharged into surface waters in accordance with specific effluent limitations. Also as set forth in the 2000 NPDES Permit, by January 1, 2010, the City's emergency overflow outfall system was required to have the capacity to handle overflows except during a storm event greater than a one-in-5-year, 24 hour storm event or its equivalent during the winter.

The City owns and operates the wastewater system, and maintains operation and control of all pipes, whether currently in use or "abandoned" or "undersized." As owners and operators, the City is a person subject to the requirements of the Clean Water Act. Sewer lines and emergency overflow pipes, whether active or abandoned or properly or improperly sized, are "point sources" under the Clean Water Act. 33 U.S.C. § 1362(14) ("any pipe"). The point sources here include, but are not limited to, each and every of the City's "abandoned" sewer

² *See, e.g.*, City of Albany Public Works Water System webpage available at <https://www.cityofalbany.net/city-data/128-public-works/water-system>.

pipes leaking or reasonably likely to leak pollutants, and the City's emergency overflow pipes that cannot handle emergency overflows.

IV. Pollutants Being Discharged

Willamette Riverkeeper alleges that the pollutants the City has discharged, is discharging, and will continue to discharge include, but are not limited to sewage, sewage sludge, and bacteria. The Clean Water Act's definition of "pollutant" specifically identifies "sewage" as a pollutant. 33 U.S.C. § 1362(6); *see also* ORS 468B.075(3) (Oregon Water Pollution Control). Willamette Riverkeeper also alleges that the City's emergency overflow discharges have exceeded, exceed, and will continue to exceed the one-in-5-year, 24 hour storm event threshold that has existed as a legal requirement since January 1, 2010 under the 2000 NPDES Permit and are impermissible.

Under the 2000 NPDES Permit, the City is required to self-report any discharges. All pollutants being discharged and overflow exceedances not set forth specifically in this letter are violations that are or should be known to the City and may be included in any future legal actions by Willamette Riverkeeper. Such pollutants may only be known to the City and eyewitnesses who are yet to be determined because such discharges have not been reported by the City. Since the City's entire files are not currently available to Willamette Riverkeeper, this information remains exclusively within the control of the City, and, consequently, Willamette Riverkeeper cannot be expected to provide all details of discharge times, locations, or amounts. The City's ongoing and continuous discharges and sanitary sewer overflows demonstrate that the City has not operated and maintained its wastewater collection system to prevent the unauthorized discharge of untreated wastewater in violation of the Clean Water Act.

V. Discharge Events Unlawful

The 2000 NPDES Permit does not authorize the City to discharge any untreated sewage from abandoned sewage pipes into waters of the United States and waters of the State from any other location other than those identified in the 2000 NPDES Permit. The 2000 NPDES Permit also does not authorize the City to discharge via its emergency overflow outfalls quantities in winter in excess of a one-in-5-year, 24-hour storm event or its equivalent. Figures 1 and 2 below, and Attachments 1, 2, demonstrate the City's unlawful discharge events.

Figure 1 – Abandoned Pipes.

Willamette Riverkeeper believes in good faith that the City has, is, and will continue to discharge pollutants from the City's "abandoned" pipes to waters of the U.S. The City admits to having "perpetually leaking" mains, undersized mains, to having "mains that have reached the end of their expected life service" in its water system,³ and wooden water pipes that it only discovered in 2018.⁴ Upon information and belief, the City has deferred for multiple years water

³ Id.

⁴ City of Albany Capital Improvement Program FY 2019-2020 through 2023-2024, City Manager's Message (available at https://www.cityofalbany.net/images/stories/publicworks/cip/albany_cip-2020-2024.pdf).

system maintenance and upgrades. In fact, the City admits that “This particular line we’ve known about. It’s just old.”⁵

All discharges resulting from old, “abandoned” leaking pipes are subject to action by Willamette Riverkeeper. Willamette Riverkeeper alleges the following violations of the 2000 NPDES Permit for “abandoned” pipes:

Date(s) of Discharge	Location	Quantity (gallons)	Waterbody Receiving Discharge	Bacteria
10/14/2015	Near Bowman Park Overflow Site # 002	3,000	Willamette River	No sampling
8/15/19	Abandoned sewer line near Bowman Park	2,100	Willamette River	Bacteria sampled (see Attachment 2)

Additionally, Willamette Riverkeeper alleges that other of the City’s abandoned, leaking pipes and undersized overflow pipes have caused, cause, and will continue to cause the discharge of pollutants to the Willamette River or its tributaries, forks, and/or connected waters. Information concerning specific dates, amounts, and exact or approximate locations, in addition to pipe location, status of “abandonment” or use, design, performance, from at least 2014 to the present is, or should be, in possession of the City.

Upon information and belief, on August 15, 2019 at approximately 8:00 a.m., City crews performing routine sewer system maintenance discovered a previously abandoned sewer line that was leaking raw sewage. Upon information and belief, the previously abandoned sewer line was leaking when it was discovered, and had been leaking raw sewage for an undetermined amount of time prior to its discovery. The City has stated it believes that April 2019 floods may have played a factor in damaging the abandoned sewer pipe, when the City’s sewage system was inundated with flood waters and discharged 5.01 million gallons of raw sewage into the Willamette River.⁶ Willamette Riverkeeper alleges that the August 15, 2019 discharge did not occur at any of the locations specifically authorized by the 2000 NPDES Permit.

Willamette Riverkeeper further alleges that the City violated the terms of the 2000 NPDES Permit for discharging impermissible quantities of bacteria in connection with the August 15, 2019 discharge. *See* Attachment 2. Sanitary sewer overflows can be caused by a failure to operate or maintain a system properly, equipment breaks or failures, blockages, or other system deficiencies. Untreated or partially treated wastewater and raw sewage can contain bacteria, viruses, and other pollutants that can affect public health. Sanitary sewer overflows can also contaminate water bodies and cause serious water quality problems. Bacteria samples are not to exceed 406 organisms per 100 ml. *See* 2000 NPDES Permit at Schedule A (Notes). If a single sample exceeds 406 organisms per 100 ml, then five consecutive re-samples may be taken at four hour intervals beginning with 28 hours after the original sample was taken. *Id.* The City’s first source sample of the August 15, 2019 discharge was at 12:22 p.m. on August 15, 2019, four hours after Willamette Riverkeeper initiated its paddle through the discharge, and bacteria sampled at > 2,420.0 MPN/100 ML. *See* Attachment 2. If the log mean of the five re-samples is

⁵ Kyle Odegard, “Old Albany pipe dumps 2,100 gallons of sewage into Willamette.” Albany Democrat-Herald (Aug. 15, 2019) (available at https://democratherald.com/news/local/old-albany-pipe-dumps-gallons-of-sewage-into-willamette/article_ab1e2f9b-ad6e-5d6e-851e-1a4298964d17.html).

⁶ *Id.*

less than or equal to 126 organisms per 100 ml, a violation shall not be triggered. *See* 2000 NPDES Permit at Schedule A (Notes). Willamette Riverkeeper alleges that the City violated the terms of the 2000 NPDES Permit for discharging impermissible quantities of bacteria in connection with the August 15, 2019 discharge event.

Figure 2 – Site # 004 Emergency Overflow Outfall.

Willamette Riverkeeper alleges that on the following dates, the City violated the Clean Water Act for failure to operate and maintain Emergency Overflow Outfall Site # 004 such that the City exceeded the terms of the 2000 NPDES Permit Schedule A(1)(B). The 2000 NPDES Permit required the City to operate and maintain Site # 004 to handle emergency overflows for a one-in-5-year, 24 hour storm event during the winter by January 1, 2010. Under ORS 468B.050(1)(c), a permittee may not “[i]ncrease in volume or strength any wastes in excess of the permissive discharges specified under an existing permit.”

Willamette Riverkeeper alleges that the City’s winter storm event discharges were, are, and will reasonably continue to be beyond the limitations of the 2000 NPDES Permit. The general rule for the emergency overflow discharge outfalls is that “[e]xcept as otherwise provided by law, no wastes shall be discharged from these outfalls and no activities which violate water quality standards...”. 2000 NPDES Permit at Schedule A(1)(b). The 2000 NPDES Permit allowed winter emergency overflow discharges only until January 1, 2010. *See* Permit, Schedule A(1)(b). After January 1, 2010, “overflows are prohibited except during a storm event greater than a one-in-five-year, 24-hour storm event or its equivalent.” *Id.* The City’s winter emergency overflow discharges have violated, continue to violate, and are reasonably likely to continue to violate the 2000 NPDES Permit.

Date(s) of Discharge	Location	Quantity (gallons)	Waterbody Receiving Discharge	Bacteria
12/7/15	Site # 004	27,000	Willamette River	No sampling
12/17/15 – 12/18/15	Site # 004	1,652,000 ⁷	Willamette River	No sampling
2/5/17 – 2/6/15	Site # 004	599,000	Willamette River	No sampling
2/16/17	Site # 004	407,000	Willamette River	No sampling
2/21/17	Site # 004	9,000	Willamette River	No sampling
10/22/17	Site # 004	89,430	Willamette River	No sampling
12/18/17	Site # 004	830,000	Willamette River	No sampling

Upon information and belief, the City’s Sanitary Sewer Overflow and Emergency Overflow problems are widespread throughout the City, and are likely more pervasive and severe than what is conveyed in this notice letter. Even if the City complies with self-reporting requirement, the City does not evade the Clean Water Act’s prohibitions on unpermitted discharges. Reported, and unreported, unpermitted discharges violate the City’s NPDES permit because they indicate improper operation and maintenance of the sewer system and constitute unauthorized point source discharges to waters of the United States.

Upon information and belief, sanitary sewer systems that are efficiently maintained and operated do not cause ongoing and repeated spills of untreated sewage. The discharges identified herein have occurred, are occurring, and are reasonably likely to recur because the City has repeatedly failed to operate and maintain the Wastewater System in violation of its 2000 NPDES Permit. The City’s 2000 NPDES Permit, General Conditions (Schedule F) Section B(1) requires

⁷ Upon information and belief, the City did not notify the media of this 1.6M gallon discharge.

that the permittee “shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.” Furthermore, the 2000 NPDES Permit Schedule F contains a Duty to Mitigate, where “[t]he permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.” 2000 NPDES Permit, Schedule F, Section A(3). Willamette Riverkeeper alleges that for at least five years, and likely since at least January 1, 2010, the City has failed to operate, maintain, and/or mitigate its abandoned pipes and its “undersized” emergency overflow system and the its impacts, continues and will reasonably continue to do so.

The sanitary sewer overflows identified herein are point source discharges of pollutants into waters of the United States in violation of the 2000 NPDES Permit and in violation of effluent standards and limitations under the Clean Water Act. 33 U.S.C. § 1311(a). The discharges identified in Figures 1, 2 and Attachment 1, 2 are from point sources within the City’s wastewater system which were not identified in an NPDES permit as authorized outfalls. None of these discharges were permitted or otherwise authorized by the Clean Water Act. As the owner of sewerage system, the City is responsible for controlling and treating the wastes the owner allows to be discharged into the system.

To the extent Willamette Riverkeeper later discovers alleged violations beyond those already identified in this notice letter that it previously could not identify due to the City’s failure to accurately record discovery, identify, or report them, Willamette Riverkeeper reserves its right to sue for these violations under the Clean Water Act.⁸ Likewise, Willamette Riverkeeper reserves the right to amend this notice letter or serve a separate notice letter if additional data becomes available, and to pursue enforcement action against the City for any violations occurring after the time period encompassed by this letter.

VI. Waters Affected

The City’s Permit authorizes limited discharges of treated wastewater to outfall location R.M. 118 (Outfall Nos. 001 and 001A), and emergency overflow discharges to the Willamette River at outfall locations at Bowman Park, Montgomery, and MH #7 (Outfall Nos. 002, 004, 005, respectively), to the Calapooia River at one outfall location at Maple Street (Outfall No. 003), and to Oak Creek at one outfall location at Columbus LS (Outfall No. 006).

The August 15, 2019 discharge to the Willamette River did not occur at any of the permitted locations, and thus is an unlawful discharge to waters of the U.S. and of the State. Discharges from the City have caused, are causing, and/or continue to cause failure of these water bodies to meet fecal coliform bacteria and other water quality standards, and have caused, are causing, and/or continue to cause to the impairment of these water bodies. The City continues to violate the Clean Water Act by discharging wastewater containing pollutants from point sources within its Wastewater System that are not identified in its NPDES permit as authorized outfalls. Since at least October 14, 2015 and upon reasonable belief continuing

⁸ Including but not limited to December 21, 2014 and December 23, 2014 exceedances of *E. Coli* limits. See Oregon Dept. of Env. Quality Warning Letter to City of Albany Reclamation Facility No. 2015-WL-575 (Feb. 13, 2015).

through the date of this Notice, other unpermitted discharges from the City's emergency overflow pipes to the Willamette River have occurred, and have a likelihood of continuing. As the City is continuing to discover leaking pipes and not resolving emergency overflow exceedances, the list of waters of the U.S. affected by the City's discharges likely is greater than those listed herein.

VII. History of Violations

Willamette Riverkeeper believes and alleges that the City's history of violations has continued since at least October 14, 2015, and many years prior to 2015, and that violations are presently ongoing and continuous. These violations have occurred, are occurring, and will continue to occur on regular basis (daily, weekly, or multiple times per month), during maintenance actions, or other actions where "abandoned" or unidentified antiquated pipes exist and have a connection with U.S. waters; as well as during emergency overflow events. All violations not set forth specifically in this letter, including specific dates and locations of such discharges, are violations that are or should be known to the City and may be included in any future legal action by Willamette Riverkeeper. All specific discharges discovered subsequent to the sending of this notice, of similar type and nature, whether occurring prior to or subsequent to this notice, shall be included in this case without need for further notice under 33 U.S.C. § 1365(b). Such discharges may only be known to the City and eyewitnesses who are yet to be determined because such discharges have not been, and are not, reported by the City.

VIII. Requested Relief

Absent cessation of the discharges by the City, Willamette Riverkeeper intends, at the close of the sixty (60) day period, to file a citizen lawsuit under § 505 of the Clean Water Act against the City, including its Manager, both individually and collectively, seeking injunctive relief, remedial relief, declaratory relief, and civil penalties for each day of each violation for each U.S. water body over the past five (5) years prior to the date of this Notice letter and sixty (60) days from the date of this notice relating to the illegal discharges through the date of this letter and all violations of § 301 of the Clean Water Act which occur subsequent to the date of this letter, plus costs, attorney and expert witness fees, and such other relief as may be appropriate. *See* 33 U.S.C. § 1319(d).

Violations occurring before November 2, 2015 are subject to a penalty of up to \$37,500 per violation. *See* 40 C.F.R. § 19.4 (Table 1). Violations occurring after November 2, 2015 are subject to escalating penalties of up to \$54,833 per violation assessed after February 6, 2019. *See* 40 C.F.R. § 19.4 (Table 2). For the violations identified in this letter, the total amount of potential penalties is well in excess of \$585,800. Lastly, Willamette Riverkeeper will seek to recover its litigation costs through Clean Water Act, 33 U.S.C. § 1365(d), including reasonable attorney and expert witness fees.

IX. The Notifier

The name, address, and telephone number of the person giving Notice of Intent to file a citizen lawsuit under the Clean Water Act is:

Travis Williams, Executive Director
Willamette Riverkeeper
403 SE Caruthers Street, Suite 101
Portland, Oregon 97214
Tel. (503) 223-6418

The name, address, and phone number of the counsel for the Notifier is:

Elisabeth Holmes, Staff Attorney
 Willamette Riverkeeper
 P.O. Box 293
 Eugene, Oregon 97440
 Tel. (541) 870-7722
 eli@willametteriverkeeper.org

X. Conclusion

Willamette Riverkeeper welcomes a discussion regarding any facts you reasonably contend are inadequately set forth in this notice letter, and any defenses you contend may affect the claims set forth in this notice letter. During the sixty (60) day notice period, Willamette Riverkeeper's undersigned counsel will be available to discuss effective remedies and actions which will assure the City's future compliance with the Clean Water Act and all applicable state pollution control laws.

Sincerely,



Elisabeth A. Holmes
 Staff Attorney for Willamette Riverkeeper
 P.O. Box 293
 Eugene, Oregon 97440
 Tel. (541) 870-7722
 Email eli@willametteriverkeeper.org

Enclosures: Attachment 1 (City of Albany SSO Report, August 20, 2019)
 Attachment 2 (City of Albany SSO Sample results 8/15/2019 through 8/20)

cc:

<u>Via U.S. Certified Mail, Return Receipt Requested</u> Andrew R. Wheeler, Administrator U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Mail Code 1101A Washington, D.C. 20460	<u>Via U.S. Mail</u> Chris Hladick, Regional Administrator U.S. EPA Region 10 1200 Sixth Ave. Seattle, WA 98101
<u>Via U.S. Certified Mail, Return Receipt Requested</u> Richard Whitman, Director Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100	<u>Via U.S. Mail</u> Sean M. Kidd, City Attorney City of Albany, Oregon c/o Delapoer Kidd P.C. 260 Ferry Street, SW, Suite 202 Albany, OR 97321
<u>Via U.S. Mail</u> City of Albany Members of City Council Individually and in their Capacities as Members of City Council 333 Broadalbin Street, SW, 1 st Floor Albany, OR 97321	



Oregon Department of Environmental Quality

SSO Reporting Form



This information must be submitted within 5 days of becoming aware of the overflow.
Please complete online and print for signature. Be sure to fill out all fields.

FACILITY/CONTACT INFORMATION

Name of Permittee: City of Albany		
Contact Name: David Gilbey		
Phone:	Email:	County:
541-497-6223	david.gilbey@cityofalbany.net	LINN
DEQ Permit # (see permit face page): 102024		DEQ File #: 1098
OERS Incident #: 2019-2126	Date Reported to OERS: 8/15/19 <input type="checkbox"/>	
Date Reported To DEQ: 8/15/19 <input type="checkbox"/>	Today's Date: 8/20/2019 <input type="checkbox"/>	
Date SSO Started (if known): 8/15/19 <input type="checkbox"/>	Time Started (if known): 08:00	
Date SSO Stopped (if known): 8/15/19 <input type="checkbox"/>	Time Stopped (if known): 14:00	
SSO Location: Other (explain): Abandoned sewer line near Bowman Park		
SSO Nearest Address: 1905 Linn Avenue NE		
City: Albany	Zip Code: 97321	
SSO Latitude (if known): N 44 deg/38 min/38.137 s		Longitude (if known): W 123 deg/5 min/1.337 sec
Estimate of Quantity Overflowed: 2100		(Gallons) Link to estimation method
Did the SSO discharge to surface water? YES		
Name of waterbody: Willamette River		

PUBLIC NOTIFICATION

Notified downstream drinking water sources (List Below)?
Name of drinking water facility: Wilsonville Water Treatment Plant
Signs Posted? YES
Media contacted? YES
Who? Albany Democrat-Herald newspaper
List any other steps taken to notify the public or state/federal agencies: News Release to local media, on City's website, Facebook, and Twitter accounts.

CAUSES

Cause or suspected cause of the overflow: Other (explain): <i>If needed, attach additional sheets</i> Abandoned sewer piping failure
Rainfall in the 24 hours prior to SSO (for storm-related overflows): NA (inches)
Source of rainfall data: <i>If needed, attach additional sheets</i>

1-in-5 year 24 hour rainfall for the sewerage system area (if known): 2.69

(in/24hr)

EMERGENCY RESPONSE AND MITIGATION

List actions taken to stop and mitigate the impact of the SSO.

For overland flow:	Taped off affected area? N/A
	Cleaned up affected area? N/A
For SSO to surface water:	Bacteria samples taken to confirm impact?
	Follow up bacteria samples taken to confirm end of impact?

Describe monitoring and results:

Bacteria (E. coli) testing - see attached (all results in MPN/100ml)

See attached data for data available as of this report on 8/20/2019. Data will be amended on 8/21/2019 with additional data collected 8/20/2019

For SSOs that impact buildings:	Pumped out flooded buildings?
	Disinfected?

Other measures taken (describe):

Steps taken or planned to reduce, eliminate, and prevent the reoccurrence of the overflow and schedule for those steps:

City of Albany Wastewater Collections Crew re-sealed (plugged) the previously abandoned sewer piping with grout on 8/15/2019.

COMMENTS

I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.

David A. Gilbey

August 20, 2019



Authorized Signature

Date

David Gilbey

541-497-6223

Name (print)

Phone Number

*You may attach additional information to this report before sending to DEQ as needed to explain the circumstances of the overflow. This information may include but is not limited to: maintenance records and bacteria monitoring results.

Upon completion, print out this form and send to the appropriate DEQ Address:

Portland-Permit Coordinator
700 NE Multnomah St., Suite 600
Portland, OR 97232

Salem-Permit Coordinator
4026 Fairview Industrial Dr. SE
Salem, OR 97302

Pendleton-Permit Coordinator
800 SE Emigrant, #330 Pendleton,
OR 97801

FOR DEQ PERSONNEL ONLY

- ☐ Pre-Enforcement Notice
☐ Warning Letter

No enforcement action was warranted because:

- ☐ The SSO was caused by unpreventable vandalism or similar force majeure; or
☐ The SSO is allowed as an exception to the permit as maintenance; or
☐ The cause of the current SSO was beyond reasonable control AND we do not expect the permittee to prevent similar SSOs in the future; or
☐ The SSO was 400 gallons or less, spilled to the ground and not reaching surface water; permittee properly reported, cleaned up, and took appropriate public notice measures; and the SSO was not part of a chronic problem.

COMMENTS

City of Albany Oregon-Sample results

	C	D	E
3	Sample date		MPN
4	8/15/2019 12:34:00 PM	Upstream overflow site	13
5	8/15/2019 12:22:00 PM	Source overflow site	>2420.0
6	8/15/2019 12:45:00 PM	Downstream overflow site	17.3
7			
8	8/16/2019 12:59:00 PM	Upstream overflow site	14.5
9	8/16/2019 12:48:00 PM	Source overflow site	47.1
10	8/16/2019 12:42:00 PM	Downstream overflow site	11
11	8/16/2019 12:43:00 PM	Downstream overflow site Duplicate	4.1
12			
13	8/17/2019 8:47:00 AM	Upstream overflow site	11
14	8/17/2019 8:57:00 AM	Source overflow site	21.3
15	8/17/2019 9:16:00 AM	Downstream overflow site	13.2
16	8/17/2019 8:48:00 AM	Upstream overflow site, duplicate	21.3
17			
18	8/19/2019 11:00:00 AM	Upstream overflow	13.4
19	8/19/2019 11:11:00 AM	Source overflow	20.3
20	8/19/2019 11:12:00 AM	Source duplicate	7.5
21	8/19/2019 11:20:00 AM	Downstream overflow	10.9
22			
23	08/20/2019	Upstream overflow	(available 8/21)
24	08/20/2019	Source overflow	(available 8/21)
25	08/20/2019	Duplicate	(available 8/21)
26	08/20/2019	Downstream overflow	(available 8/21)

Overflow event 8/15/2019

	C	D	E
3	Sample date		MPN/100ML
4	08/15/2019 12:34	Upstream overflow site	13
5	08/15/2019 12:22	Source overflow site	>2420.0
6	08/15/2019 12:45	Downstream overflow site	17.3
7			
8	08/16/2019 12:59	Upstream overflow site	14.5
9	08/16/2019 12:48	Source overflow site	47.1
10	08/16/2019 12:42	Downstream overflow site	11
11	08/16/2019 12:43	Downstream overflow site Duplicate	4.1
12			
13	08/17/2019 08:47	Upstream overflow site	11
14	08/17/2019 08:57	Source overflow site	21.3
15	08/17/2019 09:16	Downstream overflow site	13.2
16	08/17/2019 08:48	Upstream overflow site, duplicate	21.3
17			
18	08/19/2019 11:00	Upstream overflow	13.4
19	08/19/2019 11:11	Source overflow	20.3
20	08/19/2019 11:12	Source duplicate	7.5
21	08/19/2019 11:20	Downstream overflow	10.9
22			
23	08/20/2019 14:00	Upstream overflow	7.5
24	08/20/2019 14:00	Upstream Duplicate	5.2
25	08/20/2019 14:00	Source overflow	8.6
26	08/20/2019 14:00	Downstream overflow	6.3

SSO Sample results 8/15/2019 through 8/20